

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

LUCAS OSBORNE,

Plaintiff,

V.

VANCOUVER POLICE, et al.,

## Defendants.

CASE NO. C15-5877 BHS

**ORDER VACATING PREVIOUS  
ORDER, ADOPTING REPORT  
AND RECOMMENDATIONS,  
AND DENYING MOTION TO  
EXTEND DEADLINE**

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 86), and Plaintiff’s objections to the R&R (Dkt. 90).

On October 24, 2016, Defendants Charlie Ahn, the City of Vancouver, Andy Hamlin, and the Vancouver Police moved for summary judgment. Dkt. 51. On October 26, 2016, Defendant Josh Gonzalez moved for summary judgment. Dkt. 57. On December 20, 2016, Defendants Clark County Sheriff's Department, Alan Earhart, and James Eastman moved for summary judgment. Dkt. 68. On January 27, 2017, Plaintiff responded to the motions for summary judgment. Dkt. 80. On January 30, 2017, Defendants Charlie Ahn, Andy Hamlin, the City of Vancouver, the Vancouver Police, Clark County Sheriff's Department, Alan Earhart, and James Eastman replied. Dkts. 81, 82. On January 31, 2017, Defendant Josh Gonzalez replied. Dkt. 83.

On February 17, 2017, Judge Strombom entered R&Rs on the motions for summary judgment by Defendants Charlie Ahn, the City of Vancouver, Andy Hamlin,

1 the Vancouver Police, and Josh Gonzalez. Dkts. 84, 85. On March 13, 2017, Judge  
2 Strombom issued an R&R on the motion for summary judgment by Defendants Clark  
3 County Sheriff's Department, Alan Earhart, and James Eastman. Dkt. 86. In each case,  
4 Judge Strombom granted the Defendants' motion for summary judgment. Dkts. 84–86.

5 On March 16, 2017, the Court adopted the R&Rs issued on February 17, 2017.  
6 Dkts. 88, 89. On March 20, 2017, Plaintiff filed a pleading labelled as a "Second Motion  
7 for Summary Judgment with Disputed Facts and Objections to all Defendants' Summary  
8 Judgment." Dkt. 90. The document was noted on the Court's calendar as a motion for  
9 summary judgment because it was labelled as such. *See id.* On March 28, 2017, Plaintiff  
10 moved to extend his deadline for filing an appeal. Dkt. 91. On April 4, 2017, the Court  
11 adopted the R&R that had been issued by Judge Strombom on March 13, 2017. Dkt. 92.

12 The district judge must determine de novo any part of the magistrate judge's  
13 disposition that has been properly objected to. The district judge may accept, reject, or  
14 modify the recommended disposition; receive further evidence; or return the matter to the  
15 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

16 Having reviewed Plaintiff's filing on March 20, 2017, the Court concludes that  
17 Plaintiff's filing should have been noted as objections to Judge Strombom's R&R issued  
18 on March 13, 2017.<sup>1</sup> *See* Dkt. 90 at 1–3. Accordingly, the Court vacates its previous order  
19 adopting the R&R without consideration of Plaintiff's objections.

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<sup>1</sup> Because the filing was untimely as to the R&Rs entered on February 17, 2017, the Court declines to revisit its orders adopting those R&R's.

1       Nonetheless, having considered the objections, the Court concludes that Plaintiff's  
2 objections lack merit and once again adopts the R&R. Plaintiff's sole issue with the R&R  
3 is that Judge Strombom failed to address his response to Defendants' motions for  
4 summary judgment, which he labelled as "motion to summary judgment with disputed  
5 facts," and once again attached to his objections. Dkt. 90. *See also* Dkt. 80. However,  
6 contrary to Plaintiff's contentions, this filing was properly addressed by Judge Strombom  
7 in each of the R&Rs. Dkt. 84 at 2; Dkt. 85 at 2; Dkt. 86 at 2–4. Accordingly, Plaintiff's  
8 objections are denied. Also, because the Court has vacated its previous final order,  
9 Plaintiff's motion to extend the deadline for his appeal (Dkt. 91) is now moot, as the  
10 normal time to file an appeal will begin to run from the date of this order.

11       Therefore, the Court having considered the R&R, Plaintiff's objections, and the  
12 remaining record, does hereby find and order as follows:

- 13             (1)      The Court's order entered on April 4, 2017, (Dkt. 92) is **VACATED**.
- 14             (2)      The R&R (Dkt. 86) is **ADOPTED**;
- 15             (3)      Plaintiff's motion to extend the deadline for appeal (Dkt. 91) is **DENIED**  
16 as moot.
- 17             (4)      This action is **DISMISSED** and the Clerk shall close this case.

18       Dated this 18<sup>th</sup> day of May, 2017.

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BENJAMIN H. SETTLE  
United States District Judge